

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

MELANIE LATTIN.

Plaintiffs,

NO.

VS.

WORLDPAC, INC., a foreign corporation,

COMPLAINT FOR DAMAGES

JURY DEMAND

Plaintiff hereby demands a trial by jury and alleges as follows:

I. PARTIES

1.1. The Plaintiff, Melanie Lattin, is an individual residing in Snohomish County, in the Western District of Washington.

1.2. Defendant WORLDPAC, Inc., ("WORLDPAC") is a Delaware corporation with its principal place of business in Newark, California. WORLDPAC maintains various facilities and does substantial and continuous business in the State of Washington, including the Western District of Washington.

II. JURISDICTION AND VENUE

2.1 Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1331 as this action asserts claims under the Family and Medical Leave Act (FMLA), 29 U.S.C. § 2601 *et seq.*

2.2 This Court has supplemental jurisdiction over Plaintiff's State Law claims pursuant to 28 U.S.C. § 1337.

2.3 The Court has both general and specific jurisdiction over the Defendant, who has engaged in substantial and continuous business activities in and directed to Washington, has transacted business in Washington, and has purposefully availed itself of the opportunity to conduct commercial activities in this forum. Pursuant to 28 U.S.C. § 1391(c), Defendant is deemed to reside in this district. Accordingly, venue is proper in this Court pursuant to 28 U.S.C. § 1391(a)(1).

2.4 Venue is also proper in this Court pursuant to 28 U.S.C. § 1331(a)(2), because a substantial part of the events or omissions giving rise to the claims pled here occurred in the Western District of Washington.

III. FACTUAL ALLEGATIONS

3.1 Defendant WORLDPAC is a company that provides wholesale automobile parts to automobile repair shops.

3.2 Plaintiff was employed by Defendant for over 14 years, until Defendant terminated Plaintiff's employment on or about April 8, 2008.

3.3 Plaintiff was diagnosed with fibromyalgia in 2001. After Plaintiff was diagnosed, Plaintiff's manager, Pat Burns, repeatedly harassed Plaintiff about Plaintiff's medical condition and Plaintiff's need to take intermittent leave under the Family and Medical Leave Act (FMLA).

3.4 Plaintiff complained to Defendant's Vice President for Human Resources, Linda Colliss, about Burns' harassment.

1 3.5 Plaintiff also complained about Burns' harassment to Adam Hutchins, of
2 Defendant's Human Resources Department.

3 3.6 On or about February 23, 2008, Plaintiff called Hutchins and again complained
4 about Burns' harassment. Hutchins stated that he would speak with Colliss about it, and they
5 would together speak with Burns.

6 3.7 On or about March 21, 2008, Plaintiff participated in a conference call with
7 Colliss and Hutchins. Present with Plaintiff was Defendant's employee John Mahoney. Plaintiff
8 was given a memo from Colliss and Hutchins, stating that Defendant needed to secure
9 certification from Plaintiff's physician to determine Plaintiff's fitness for duty and/or need for
10 reasonable accommodation. The memo also stated that Defendant was concerned about
11 Plaintiff's ability to drive safely to or from work while on prescription pain medication.

12 3.8 Attached to the memo to Plaintiff were two authorization forms to release medical
13 information, which Plaintiff was directed to sign and return to Defendant by noon that day.
14 Plaintiff did as directed and returned the signed authorization forms to Defendant.

15 3.9 On or about March 28. 2008, Colliss sent letters to the Plaintiff's physicians.

16 3.10 That same day, Plaintiff provided Federal FMLA Family and Medical Leave
17 Medical Certification Form to her physicians. One of her physicians, Tari Roche, D.O.,
18 completed the form that day.

19 3.11 Dr. Roche indicated on the medical certification form that Plaintiff would need
20 occasional days off because of pain as a result of Plaintiff's serious health condition. Dr. Roche
21 stated that Plaintiff would need monthly doctor's visits and from zero to two days off per month
22 because of pain.

1 3.12 Plaintiff returned the completed certification form to Defendant on or about
2 March 28, 2008.

3 3.13 On or about April 8, 2008, Defendant terminated Plaintiff's employment.

4 3.14 Plaintiff was an "eligible employee" under the Family and Medical Leave Act, 29
5 U.S.C. § 2601 *et seq.*

6 3.15 Plaintiff's medical condition constituted a "serious health condition" under the
7 FMLA.

8 3.16 Defendant's termination of Plaintiff's employment constituted the denial of
9 Plaintiff's exercise or attempt to exercise her right to take leave under the FMLA.

10 3.17 Plaintiff's medical condition constituted a disability under the Washington Law
11 Against Discrimination, RCW 49.60.

12 3.18 A substantial factor in Defendant's termination of Plaintiff's employment was
13 because Plaintiff had a disability.

14 3.19 Defendant willfully violated Plaintiff's rights under the FMLA.

15 3.20 Plaintiff has been injured and suffered damages as a result of Defendant's acts.

16 3.21 Plaintiff was paid her wages on a commission basis. Plaintiff's commission was
17 based on a percentage of the "gross profit" earned by Defendant on the items sold by Plaintiff.

18 3.22 The "gross profit" upon which Plaintiff's commission was supposed to be
19 determined was the amount that the product was marked up by Defendant before sale to
20 Defendant's customers. In other words, the "gross profit" was supposed to be the difference
21 between the amount that Defendant paid for the item and the amount that Defendant sold the
22 item for.

1 3.23 Defendant, during all times relevant, had the practice of claiming to Defendant's
2 employees that the price that Defendant paid for many of the items prior to mark-up was
3 considerably higher than the price that Defendant in fact paid for the items.
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5 3.24 As a result, Plaintiff's commission that Plaintiff was paid by Defendant was
6 substantially less than what Plaintiff should have been paid pursuant to the agreement between
7 Defendant and Plaintiff.
8

9 3.25 Defendant willfully paid Plaintiff a lower wage than what Plaintiff was entitled to
10 pursuant to the agreement between Plaintiff and Defendant.
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IV. STATEMENT OF CLAIMS

A. **Family and Medical Leave Act (FMLA) – 29 U.S.C. § 2601 *et seq.***

12 4.1 Defendant's termination of Plaintiff's employment violated Plaintiff's rights
13 under the FMLA.
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B. **Disability Discrimination – RCW 49.60**

15 4.2 Defendant's termination of Plaintiff's employment constitutes disability
16 discrimination under the Washington Law Against Discrimination, RCW 49.60.
17

C. **Willful Withholding of Wages – RCW 49.52.050**

18 Defendant will fully paid Plaintiff a lower wage than the wage Defendant was obligated to
19 pay Plaintiff, in violation of RCW 49.52.050.
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V. JURY DEMAND

21 5.1 Plaintiff hereby demands that this matter be tried before a jury.
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VI. PRAYER FOR RELIEF

23 Wherefore, Plaintiff prays that the Court enter a judgment:
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1. Awarding Plaintiff actual, compensatory and liquidated damages;
2. Awarding Plaintiff her attorney's fees and costs;
3. For such other and further relief that the Court deems just and equitable.

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6 Dated this 8th day of April, 2008.
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LAW OFFICES OF
JUDITH A. LONNQUIST, P.S.

12 /s/ Mitchell A. Riese
13 Mitchell A. Riese, WSBA #11947
14 Attorneys for Plaintiff
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